

MAY 31 2006

PATENT

Atty Docket No.: 200313958-1

App. Ser. No.: 10/697,688

REMARKS

Favorable reconsideration of this application is respectfully requested in view of the claim amendments and following remarks. claims 1, 2, 7-9, 12, 16, 17, 19, 21, 23, 25, 30, 31, and 34 have been amended. Claim 22 has been canceled without prejudice or disclaimer of the subject matter therein. Claims 1-21 and 23-24 are currently pending, of which claims 1, 9, 17, 25 and 30 are independent.

No new matter has been introduced by way of the claim amendments; entry thereof is therefore respectfully requested.

The specification was objected because the Abstract allegedly does not contain a concise statement of the technical disclosure of the patent.

Claims 1-10, 12-21, and 25-34 were rejected under U.S.C. §101 for allegedly being directed to non-statutory subject matter.

Claims 1, 4-6, 8, 12-15, 19, 21, 24, 29, 30, 33, and 34 were rejected under U.S.C. §102(b) as allegedly being anticipated by Adler et al. (6,138,130).

Claims 2, 3, 7, 9-11, 16-18, 20, 22, 23, 25-28, 31, and 32 were rejected under U.S.C. §103(a) as allegedly being unpatentable over Adler et al. in view of Hsiung et al. (20030144746).

Drawings

The indication that the drawings submitted on October 31, 2006 have been accepted is noted with appreciation.

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**Objection to Abstract**

The Office Action alleges that the Abstract is not a concise statement of the technical disclosure of the patent merely because "it simply restates the limitations of claim 1." It is respectfully submitted that *it is because* of the use of claim 1 language in the Abstract that the latter provides a concise statement of the technical disclosure of the patent. Indeed, MPEP 2173 states,

The primary purpose of this requirement of definiteness of claim language is to ensure that the scope of the claims is clear so the public is informed of the boundaries of what constitutes infringement of the patent. *A secondary purpose is to provide a clear measure of what applicants regard as the invention so that it can be determined whether the claimed invention meets all the criteria for patentability and whether the specification meets the criteria of 35 U.S.C. 112, first paragraph with respect to the claimed invention. (Emphasis added).*

It is respectfully submitted that claim 1 must have satisfied the above requirements because it was not rejected under 35 U.S.C. §112. Therefore, the language of claim 1 must have provided a "clear measure of what applicants regard as the invention," and such language – in turn – can be used in the Abstract to provide a "concise statement of the technical disclosure of the patent." Furthermore, nowhere in the MPEP is there a requirement that the language of the Abstract cannot include language in other parts of the present disclosure. Accordingly, it is respectfully submitted that the objection to the Abstract is without basis, and withdrawal of such an objection is respectfully requested.

**Claim Rejection Under 35 U.S.C. §101**

Claims 1-10, 12-21, and 25-34 have been rejected for allegedly being directed to non-statutory subject matter because "the method does nothing with the processed data that

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produces a concrete, useful and tangible result, such as displaying a spreadsheet.” (See Office Action, p. 3).

In the interest of expediting the prosecution of this application, claim 1 has been amended as suggested by the Office Action to further recite “enabling a display of the electronic spreadsheet...” in order to overcome the rejection under 35 U.S.C. §101. Therefore, withdrawal of this rejection for claims 1-8 is respectfully requested.

It should be noted that claim 5, as originally presented, recites “the spreadsheet program is operable to display the at least a portion of the data at the location” to show a concrete, useful and tangible result as required by the Office Action. Yet, the Office Action also rejects claim 5 under 35 U.S.C. §101 in contradiction with the requirements set forth in the Office Action for overcoming such a rejection. Accordingly, it is respectfully submitted that the rejection of claim 5 under 35 U.S.C. §101 should be withdrawn to avoid any inconsistency in the Office Action.

It should be noted that claims 9 and 25 also recite data “operable to be displayed in one or more of the locations in the electronic spreadsheet,” and claim 17 also recites data displaying at the “designated locations in the electronic spreadsheet.” Thus, claims 9, 17, and 25 also satisfy the requirements under 35 U.S.C. §101 as set forth by the Office Action. Indeed, the Interim Guidelines for Subject Matter Eligibility, as posted by the USPTO on its website, “a useful, concrete and tangible result must be either specifically recited in the claim or flow inherently therefrom” and “[t]o flow inherently therefrom, it must occur.” It is respectfully fully submitted that the useful, concrete and tangible result is specifically recited in the claim by way of data being displayed in the electronic spreadsheet, which provides viewers with information about the locations of the sensors from which the data originate.

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Additionally, a useful, concrete and tangible result in the form of a display of the spreadsheet flows inherently from the claim, i.e., the display of the electronic spreadsheet must occur, because it is the reason for displaying data in the spreadsheet. Accordingly, withdrawal of the rejection of claims 9-12, 10-21, and 25-29 under 35 U.S.C. §101 is respectfully requested.

Regarding claim 30, once again, the Interim Guidelines for Subject Matter Eligibility, as posted on the USPTO website, clearly states "functional descriptive material [such as computer programs, instructions, codes in combination with an appropriate computer readable medium ... is patent eligible subject matter if it is capable of producing a useful, concrete, and tangible result when used in the computer system." It is respectfully submitted that the useful, concrete and tangible result in claim 30 is the determination of a location in the electronic spreadsheet "based on the location information for the data source." (Compare with *In re Lowry* 32 USPQ2d 1031 where a memory with a data structure that increased computing efficiency was patentable, as cited in Interim Guidelines). Accordingly, withdrawal of the rejection of claims 30-34 are respectfully requested.

**Claim Rejection Under 35 U.S.C. §102**

The test for determining if a reference anticipates a claim, for purposes of a rejection under 35 U.S.C. § 102, is whether the reference discloses all the elements of the claimed combination, or the mechanical equivalents thereof functioning in substantially the same way to produce substantially the same results. As noted by the Court of Appeals for the Federal Circuit in *Lindemann Maschinenfabrick GmbH v. American Hoist and Derrick Co.*, 221

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USPQ 481, 485 (Fed. Cir. 1984), in evaluating the sufficiency of an anticipation rejection under 35 U.S.C. § 102, the Court stated:

Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim.

Therefore, if the cited reference does not disclose each and every element of the claimed invention, then the cited reference fails to anticipate the claimed invention and, thus, the claimed invention is distinguishable over the cited reference.

Claims 1, 4-6, 8, 12-15, 19, 21, 24, 29, 30, 33, and 34 were rejected under U.S.C. §102(b) as allegedly being anticipated by Adler et al.

*Claims 1 and 30*

The Office Action cites to col. 13, ll. 20-24 and col. 6, ll. 31-34 in Adler to reject claim 1. However, those cited sections merely describe: a) a computer-based system that a user can employ to access a spreadsheet and input data into user-selected cells through a text edit field via the input means (e.g., input or pointing devices) (col. 6, ll. 31-34); and b) the source of the data for the objects and formulas to be input to the cells of the spreadsheet may be a computer memory or storage device (col. 13, ll. 20-24). Thus, there is no placement of data in a spreadsheet that is based on the location information for the data source from which the data is received. Indeed, col. 5 ll. 52-60 of Adler merely discusses the association of "each object and formula with each cell and correspondingly evaluates each formula" and the association of "a result of each formula with each cell containing each formula operating on the at least one object" without describing that such associations are based on the location information of a data source from which the object and formula originate. In contrast, claims

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1 and 30 clearly recite, "determining a location in an electronic spreadsheet for placing at least a portion of the data *based on location information for the data source.*" (Emphasis added).

Because Adler et al. fails to disclose each and every element of claims 1 and 30, it is respectfully submitted that Adler et al. fails to anticipate claims 1 and 30. Accordingly, claims 1-8 and 30-34 are allowable over the references of record, and withdrawal of their rejection is respectfully requested.

**Claim 6**

Claim 6 is further allowable over Adler et al. and the references of record for at least the following reasons:

Claim 6 clearly recites "calculating a total from data from a data source and data from one other data source that is "physically located" proximate the data source. Yet, the Office Action cites to Adler et al. in col. 17, ll. 19-20 and 25-29, which merely discusses data in various cells within the spreadsheet. While such cells may be proximate to each other in the spreadsheet and visually appear in the spreadsheet as physically proximate to each other, such discussion does not shed light on the proximity of the *physical locations* of the data sources from which data in the various spreadsheet cells originate.

**Claims 12-15**

Claims 12-15 are dependent claims, based on independent claim 9. Yet, while claims 12-15 were rejected under U.S.C. §102(b) as allegedly being anticipated solely by Adler et al., its base claim 9 was rejected under 35 U.S.C. §103(a) by a required combination of Adler

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et al. and Hsiung et al. It is respectfully submitted that if base claim 9 cannot be anticipated by Adler et al. alone, it follows that its dependent claims 12-15 cannot be anticipated by Adler et al. alone either. Withdrawal of the rejection of claims 12-15 is respectfully requested.

Likewise, claims 19, 21, and 24 are dependent claims based on independent claim 17. Yet, while claims 19, 21, and 24 were rejected under U.S.C. §102(b) as allegedly being anticipated solely by Adler et al., its base claim 17 was rejected under 35 U.S.C. §103(a) by a required combination of Adler et al. and Hsiung et al. It is respectfully submitted that if base claim 17 cannot be anticipated by Adler et al. alone, it follows that its dependent claims 19, 21, and 24 cannot be anticipated by Adler et al. alone either. Withdrawal of the rejection of claims 19, 21, and 24 is respectfully requested.

Likewise, claim 29 is a dependent claim based on independent claim 25. Yet, while claim 29 was rejected under U.S.C. §102(b) as allegedly being anticipated solely by Adler et al., its base claim 25 was rejected under 35 U.S.C. §103(a) by a required combination of Adler et al. and Hsiung et al. It is respectfully submitted that if base claim 25 cannot be anticipated by Adler et al. alone, it follows that its dependent claim 29 cannot be anticipated by Adler et al. alone either. Withdrawal of the rejection of claim 29 is respectfully requested.

**Claim Rejection Under 35 U.S.C. §103**

The test for determining if a claim is rendered obvious by one or more references for purposes of a rejection under 35 U.S.C. § 103 is set forth in MPEP § 706.02(j):

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference

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or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

Therefore, if the above-identified criteria are not met, then the cited reference(s) fails to render obvious the claimed invention and, thus, the claimed invention is distinguishable over the cited reference(s).

Claims 2, 3, 7, 9-11, 16-18, 20, 22, 23, 25-28, 31, and 32 were rejected under U.S.C. §103(a) as allegedly being unpatentable over Adler et al. in view of Hsiung et al. (20030144746).

Claims 2, 3, 7, 31, and 32

It is respectfully submitted that, for at least the reasons set forth earlier, claims 2, 3, 7, 31 and 32 are not anticipated by Adler et al. In addition, the Office Action does not rely upon Hsiung et al. to make up for the deficiencies in Adler et al. with respect to these claims. Indeed, Hsiung et al. makes no mention of any determination of a location in a electronic spreadsheet for placement of data that is based on location information of the data source from which the data originates.

Accordingly, claims 2, 3, 7, 31, and 32 are allowable over the references of record, and withdrawal of the rejection of these claims is respectfully requested.



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**Claims 9-11, 16-18, 20, 22, 23, and 25-28**

Independent claims 9, 17, and 25 have been amended to further recite the determination of locations for data placement in the spreadsheet is based on the (physical) locations of the data sensors. Thus, for at least the reasons set forth earlier, claims 9-11, 16-18, 20, 22, 23, and 25-28 are not anticipated by Adler et al. In addition, the Office Action does not rely upon Hsiung et al. to make up for the deficiencies in Adler et al. with respect to these claims. Indeed, Hsiung et al. makes no mention of any determination of a location in a electronic spreadsheet for placement of data that is based on location information of the data source from which the data originates.

Accordingly, claims 9-11, 16-18, 20, 22, 23, and 25-28 are allowable over the references of record, and withdrawal of the rejection of these claims is respectfully requested.

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**Conclusion**

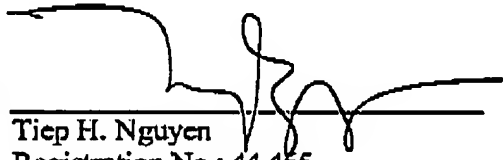
In light of the foregoing, withdrawal of the rejections of record and allowance of this application are earnestly solicited.

Should the Examiner believe that a telephone conference with the undersigned would assist in resolving any issues pertaining to the allowability of the above-identified application, please contact the undersigned at the telephone number listed below. Please grant any required extensions of time and charge any fees due in connection with this request to deposit account no. 08-2025.

Respectfully submitted,

Dated: May 31, 2006

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